



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

FEB 10 2012

Ref: 12-00100-F
OGE FOIA FY 12/19

OCCL

Mr. Jason Smathers
MuckRock News
DEPT MR 1034
P.O. Box 55819
Boston, MA 02205-5819

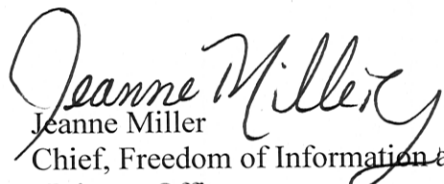
Dear Mr. Smathers:

This is the final response to your Freedom of Information Act (FOIA) request dated January 2012, filed with the Office of Government Ethics (OGE), for "*all OGE Form 202, 'Notice of Conflict of Interest Referral Form' received in calendar year 2011.*" On February 6, 2012, OGE referred your request and the enclosed responsive pages to this office for processing and direct response to you. We received your request on February 10, 2012, and assigned it FOIA case number 12-00100-F.

I have determined that the redacted portions are exempt from release pursuant to 5 U.S.C. § 552(b)(6), which pertains to information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

If you are not satisfied with this action, you may submit an administrative appeal to the Department of Defense, Office of the Inspector General, Office of Communications and Congressional Liaison, ATTN: Mr. John R. Crane, Suite 15F25, 4800 Mark Center Drive, Alexandria, VA 22350-1500. Your appeal should be postmarked within 60 days of the date of this letter, should cite case number 12-00100-F, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,


Jeanne Miller
Chief, Freedom of Information and
Privacy Office

Enclosure(s):
As stated

OGE Use Only

OSA Interagency Report
Control No. 0398-OGE-AR

Notification of Conflict of Interest Referral

For use in cases involving possible violations of 18 U.S.C. §§ 203, 205, 207-209 by current or former executive branch employees only, see reverse for summary of statutory/regulatory background. Please return directly to U.S. Office of Government Ethics, 1201 New York Ave. NW, Suite 500, Washington, DC 20005-3917 Phone: Associate Director for Program Reviews (202) 482-9270 FAX: (202) 482-9238

Agency Referring the Case DCIS	Agency Case or Referral Number 201002070M	Case Referred to: <input type="checkbox"/> DOJ, Public Integrity Section, Criminal Division <input type="checkbox"/> U.S. Attorney for (district) _____ <input checked="" type="checkbox"/> DOJ, other ICCTF - Kim Berger
Date of Referral to DOJ 3-1-11	Name of Employee Involved in Case (optional), Agency, and Agency Component Where he/she was Employed.	

PART I ETHICS TRAINING

Is there any evidence the individual received ethics training? ☐ YES ☐ NO ☒ UNCLEAR

PART II STATUTE(S) INVOLVED IN THIS CASE

Please check the appropriate box for the statute(s) involved in this case, then complete the rest of the information for the statute(s)

- ☐ **18 U.S.C. § 203 (Compensation for Representation Affecting the Government)**
Federal entity before which representation occurred: _____
Compensated representation on behalf of: _____
Were representational services rendered or to be rendered: ☐ by the employee ☐ or by another?
- ☐ **18 U.S.C. § 205 (Representation Affecting the Government)**
Federal entity before which representation occurred: _____
Representation on behalf of: _____
- ☐ **18 U.S.C. § 207 (Post-Employment)**
Federal entity before which representation occurred: _____
Representation on behalf of: _____
Was the communication/representation ☐ oral? ☐ and/or written?
☐ Former employee termination service before January 1, 1991. Check subsections involved:
☐ 207(a) ☐ 207(b)(i) ☐ 207(b)(ii) ☐ 207(c)
☐ Former employee termination service on or after January 1, 1991. Check subsections involved:
☐ 207(a)(1) ☐ 207(a)(2) ☐ 207(b) ☐ 207(c) ☐ 207(d) ☐ 207(f)
If 207(b) or 207(f) is checked, was behind-the-scenes aid or advice involved? ☐ Yes ☐ No
- ☒ **18 U.S.C. § 208 (Acts Affecting a Personal Financial Interest)**
Does the case involve the financial interest: ☐ of the employee? ☒ of the employee's spouse?
☐ Minor child? ☐ A firm with which the employee was negotiating for employment?
☐ Other? (specify) _____
Was a waiver sought? ☐ Yes ☒ No Was it granted? ☐ Yes ☐ No
Was the employee required to file a financial disclosure form? ☒ Yes ☐ No If yes, check form involved:
☐ SF 278 ☒ OGE Form 450 ☐ Other (specify) _____
If so, was the basis for the interest disclosed on the financial disclosure form? ☐ Yes ☒ No
- ☐ **18 U.S.C. § 209 (Supplementation of Salary)**
Type of supplementation (meals, travel, cash, etc.): _____
Value of supplementation: \$ _____ Number of supplements: _____
- ☐ **Additional Statutes Involved in Conflict of Interest Referrals**
Was 18 U.S.C. § 201 (bribery/gratuity) involved? ☐ Yes ☐ No
Was 5 U.S.C. App. (Ethics in Government Act) § 501 (outside earned income) involved? ☐ Yes ☐ No
Was 5 U.S.C. App. (Ethics in Government Act) § 502 (outside employment) involved? ☐ Yes ☐ No
Was 18 U.S.C. § 1001 (false statements) involved? ☐ Yes ☐ No
Was 5 U.S.C. App. (Ethics in Government Act) § 101 et seq. (Financial disclosure) involved? ☐ Yes ☐ No
Other (list) _____

Agency Contact/Telephone Number

Date

Statutory/Regulatory Background

28 U.S.C. § 535 requires every department or agency to report to the Attorney General any information, allegations, or complaints relating to violations of title 18 of the United States Code involving Government employees, including possible violations of 18 U.S.C. § 207 by former Government employees. The Director of the Office of Government Ethics (OGE), in accordance with 5 U.S.C. App. § 402(e)(2), has promulgated regulations at 5 C.F.R. § 2638.603 requiring agencies to concurrently notify the Director when any matter involving a violation of 18 U.S.C. §§ 203, 205, 207, 208, and/or 209 is referred to the Department of Justice pursuant to 28 U.S.C. § 535. Such notification may be accomplished by providing a copy of the referral document or by submitting this optional form, unless such notification would otherwise be prohibited by law. OGE regulations also require that the department or agency subsequently notify the Director of the referral's disposition, including any disciplinary or corrective action taken by the department or agency. 5 C.F.R. § 2638.603(c). Information relating to the disposition of a referral may be communicated to the Director in writing.

PART III ADDITIONAL AGENCY COMMENTS (if any):

PART IV DISPOSITION OF REFERRAL (OGE use only):

☐ DOJ declined prosecution.

☐ DOJ initiated prosecution.

Resolution.

Agency disciplinary or corrective action, if any:

Notification of Conflict of Interest Referral

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Agency Referring the Case DoDIG DCIS	Agency Case or Referral Number 201102236Q	Case Referred to: <input type="checkbox"/> DOJ, Public Integrity Section, Criminal Division <input checked="" type="checkbox"/> U.S. Attorney for (district) <u>New Mexico</u> <input type="checkbox"/> DOJ, other
Date of Referral to DOJ TBD	Name of Employee Involved in Case (optional), Agency, and Agency Component Where he/she was Employed. <u>U.S. Army Corps of Engineers</u>	

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Value of supplementation: \$ DOJ, Public Integrity Section, Criminal Division Number of supplements: DOJ, Public Integrity Section, Criminal Division

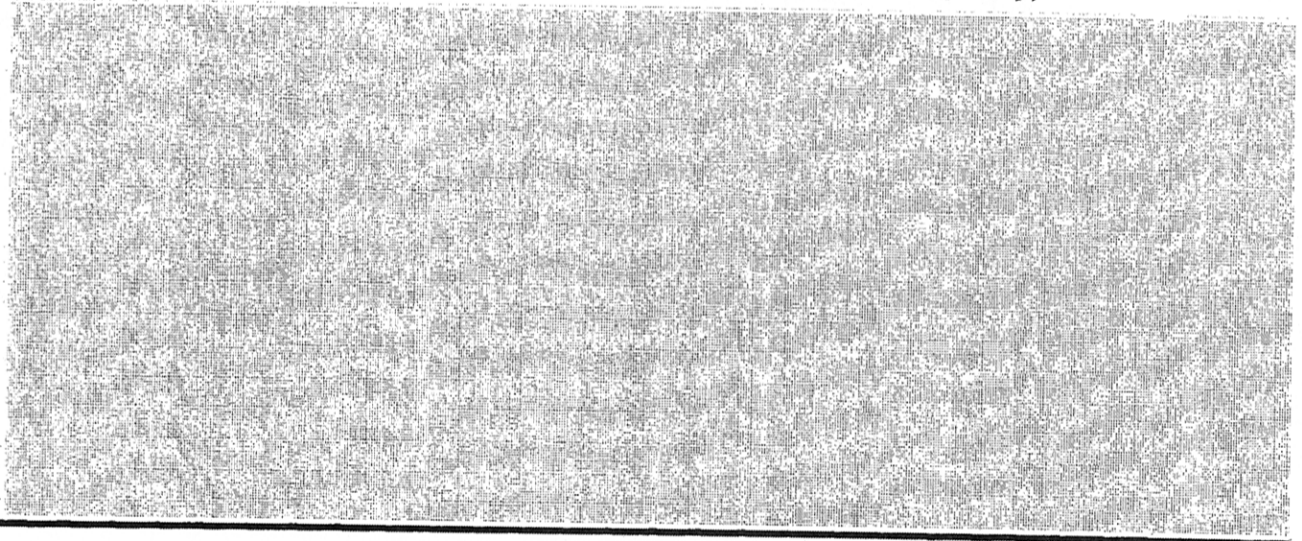
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Other (list) DOJ, Public Integrity Section, Criminal Division

Agency Contact/Telephone Number <u>505-856-</u>	Date August 25, 2011
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